LAW

Paper 9084/11

Paper 11

Key messages

- Most questions require candidates to address both a factual and an analytical element of the topic in question. It is essential that candidates include both of these elements in their answer to allow them to access the upper bands of marks.
- Illustrative content, by statute or case, is essential to achieve the higher bands of marks.
- Where a question has a factual scenario, it is essential that candidates address the issues within that scenario as part of their response.

General comments

The paper was of a similar level of difficulty to that set in previous years and none of the questions was considered to be particularly difficult. Many candidates were, however, unable to attempt three questions, with lack of time appearing to be an issue in some of the cases.

It was apparent that for other candidates the third answer was poorly attempted, suggesting limited choice for some. Some Centres produced good examples of well considered responses; however, the majority of Centres seemed to have entered candidates who did not seem to be really ready for the rigours of an external examination. On a positive note, the standard of written English seems again to have improved across the majority of Centres.

Indeed, some of the better candidates were able to produce answers of some considerable length given the time constraints.

It is disappointing that some candidates, as has happened in previous years, continue to offer pre-prepared answers, without taking the requirements of the paper into account. These answers inevitably gain limited marks as they fail to clearly address the issues within the questions. Sometimes this seems to have been caused by careless reading of the question and as such, candidates are encouraged to ensure they read each question fully before starting to write. This was particularly evident in the questions concerning Criminal Process (**Question 5**) and Solicitors (**Question 6**). Candidates who did not include case citation and illustration in their answers, especially in the questions on Police Powers (**Question 2**) and Statutory Interpretation (**Question 4**), were limited in the number of marks they could gain.

Comments on specific questions

Question 1

This question required candidates to discuss precedent and comment on the effect of the decision in Herrington on the hierarchical system. This proved a popular question and many candidates were able to provide good explanation and case citation to explain the operation of precedent in the courts and the technical content of decisions (ratio, obiter etc.). However, fewer candidates were actually able to address the main issue of the question, which was to discuss the flexibility offered by the Practice Statement of 1966. Many produced a rather generic precedent essay with little focus on the main issue, whilst others focused solely on the position of the Supreme Court without considering the impact on other courts.

Weaker candidates also scored poorly when answers - on what is essentially a case driven subject - featured little or no relevant case citation as illustration of their arguments.

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Question 2

This was a question on police powers and the rights of the citizen. Very few candidates attempted this question and it was not done well on the whole, with little actual knowledge of PACE/Codes/any other relevant statute. A few did attempt to address the issues of the protection of the accused, but most wrote without reference to particular sections in PACE and without mentioning the Codes of Practice. Some answers showed some general understanding of the range of powers available to the police, but in weaker candidates this became chatty and informal in content. Candidates who were able to cite appropriate legislation (statutes and codes) and were able to give case examples, fared better. Comment was often limited to 'I agree' or 'I disagree', demonstrating a failure to go beyond describing powers and evaluate their protective effect, as asked by the question.

Question 3

This question concerned solicitors, their role and the recent changes to the profession. This was not a very popular question. Candidates often took this as an invitation to write about both barristers and solicitors in a rather general and overtly factual way, with little reference to the issues set out in the question. Most ignored the opening quotation completely and merely described the role of the two professions without drawing any points of comparison. Distressingly, few candidates seemed aware of the increased rights of advocacy, changes in role or opportunities to become judges now offered to solicitors. These candidates often concentrated on an, often inaccurate, account of training rather than engaging with the question.

Question 4

This was a question on statutory interpretation. This proved to be a popular question with many Centres. It was sometimes answered well but far too many answers were lists of different approaches and lacked evaluation of the merits of each approach. Case law, where used, was generally well known but there continue to be candidates who approach statutory interpretation without using case law to support answers, and this inevitably limits the marks which can be awarded. The question itself specifically required reference to decided cases. A surprising number of candidates failed to cite any cases at all when answering this question and many others simply named cases but did not discuss them. Even the better answers did not, on the whole, include extensive case discussion. Many weaker candidates also failed to discuss the rules of language or they did not discuss them well, often offering no explanation of the Latin terms, or no case illustration. Centres should focus much more directly on ensuring that candidates are familiar with a wide range of relevant and ideally more modern case law. Some candidates seemed to have a pre-set answer prepared rather than engaging with the specific wording of the question and many of the candidates did not discuss 'Is any one approach to be preferred?'

Question 5

This question concerned criminal process and the choices available for a person charged with a triable either-way offence. Unfortunately, most candidates failed to read the question and produced an answer purely on the jury, many spending a lot of time on selection processes and qualification. It was not possible to reward this type of answer well, as the clear focus of the question was on the procedures that would take place where an accused person was preparing for trial. Few candidates seemed to refer to the scenario at all, and fewer were able to identify theft as a triable either-way offence. Some limited credit could be given to candidates who discussed the merits of jury trial, but only in the context of the defendant's election, and then only if the candidate had made the link to Adela. Some candidates gave an account of trial process, but again this was often brief or inaccurate. A few chose to discuss appeals, which could not be rewarded at all.

Question 6

This question concerned ADR. This was a popular choice and some candidates were able to give quite a wide ranging view of the types of ADR available and the situations in which it might be more appropriate than the more formal court processes. Many candidates, however, failed to define or explain the types of ADR in any real detail, often muddling negotiation, conciliation and mediation. Few could cite real life examples of ADR, despite this being an element of the question. Detail on the binding - or otherwise - nature of the methods and any appeal pathways - where relevant - were often absent. Commentary, where offered, was often fairly simplistic and generic, with no real focus on the merits and demerits of each type of ADR.

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Paper 9084/12

Paper 12

Key messages

- Most questions require candidates to address both a factual and an analytical element of the topic in question. It is essential that candidates include both of these elements in their answer to allow them to access the upper bands of marks.
- Illustrative content, by statute or case, is essential to achieve the higher bands of marks, especially where required by the question
- Where questions are based on a factual scenario (as in **Question 4**), candidates should remember to address the circumstances of the scenario, at some point in their answer

General comments

The paper was of a similar level of difficulty to that set in previous years and none of the questions was considered to be particularly difficult. Timing continues to be an issue for some, with an increasing number of candidates answering only two questions or relying on note form for the last answer. For some Centres, the third answer offered by candidates was poorly attempted, suggesting limited choice. Some Centres produced really good examples of well considered responses and the standard of written English seems again to have improved across the majority of Centres.

It is disappointing that, yet again, some candidates offer pre-prepared answers, without taking the specific requirements of the question into account. These answers inevitably, gain limited marks as they fail to clearly address the issues within the questions. It is important to stress that candidates should look specifically for the trigger words in the questions (i.e. discuss, with reference to decided cases, analyse) to allow them to gain high marks. There was also evidence of some careless reading of the question and candidates are encouraged to ensure they read each question fully before starting to write. This was particularly evident in the questions concerning the Judiciary (**Question 3**) and the Magistrates (**Question 6**). Candidates who did not include case or statutory citation and illustration in their answers, especially in the questions on Precedent (**Question 1**) and Police Powers (**Question 2**), were limited in the number of marks they could gain.

Comments on specific questions

Question 1

This question concerned precedent. This question proved very popular in most Centres. Answers often seemed pre-prepared and some of the weaker answers contained very little case citation beyond London Tramways and Young. Bearing in mind that this question focused on an area of law which is based on case law, this proved rather disappointing. As ever the weakness was a lack of critical engagement with reference to cases, or where cases were mentioned, they tended to be described rather than critiqued with reference to the issue in the question. This stopped many getting into Band 5. Too many scripts mentioned the House of Lords not the Supreme Court and not all scripts described the hierarchy fully. The explanation and illustration of ratio and obiter were too brief on many scripts. However, there were a number of really good responses which tried to do more to answer the analytical aspects of the question

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Question 2

This was a question on police powers. Very few candidates attempted this question and it was not done well on the whole, with little actual knowledge of PACE/Codes/any other relevant statute. A few did attempt to address the issues but most wrote without reference to particular sections in PACE and without mentioning the Codes of Practice. Some answers showed some general understanding of the range of powers available to the police, but in weaker candidates this became chatty and informal in content. Candidates who were able to cite appropriate legislation (statutes and codes) fared better. Comment was often limited to 'I agree' or 'I disagree', demonstrating a failure to go beyond describing powers and evaluate, as asked for in the question.

Question 3

This question concerned the judiciary. This was also an unpopular question, with very few candidates attempting an answer. Those who did often produced either an overly factual description of the judges' qualifications without addressing the appointment process, or, alternatively, a general evaluative account focusing on the lack of diversity. Very few candidates managed to combine both aspects of the question into a coherent response. Some candidates did not read the question and included material on the jury or on magistrates. Most candidates just did not have sufficient knowledge of the area, with responses tending to be very brief. Comment was often critical of appointment but with very little discussion on efforts at diversification.

Question 4

This question concerned the jury. This proved to be a popular question, with some good responses. It was sometimes answered very well but far too many answers were purely factual in content with little attempt to engage critically with the quotation, as the question requested. Where the critical aspect was addressed, better candidates were able to support their arguments with useful case citation and example, and this could be rewarded. Some candidates offered an overview of juries, with little focus on criminal juries in general or the scenario in particular. There was often some overlap with magistrates too. Quite a number focused on the amount of sentence as being the disparity, not the fact that juries do not sentence in the first place.

Question 5

This question concerned delegated legislation. This was a very popular question and was often answered very well, with candidates offering a wide range of examples and addressing the critical component of the question. There were some really good responses but there were candidates who struggled to really answer the question. Some candidates with obviously high levels of factual knowledge found it hard to be selective in the amount of detail they used and hence left themselves insufficient time to comment. As a result some lost out because they ran out of time before they had covered court controls and subsequently failed to address the issue of 'desirability'. Weaker candidates produced a briefer, almost exclusively factual account. Often these were lacking in relevant illustration or example, and they seldom offered any critical commentary.

Question 6

This question concerned the magistracy and required a discussion of the adequacy of the selection and training processes as well as an evaluative discussion of the role of the magistrate. This proved to be a very popular question with many candidates, but often produced a rather generic essay on magistrates with no attempt to link comment to the aspects raised by the question. Many candidates concentrated on the 'still mostly white, middle-class, middle-age etc.' comments which had been the focus of questions on the magistracy in previous papers. Often information on both appointment and training was rather out of date. Training was often quite briefly covered with no real attempt to evaluate the adequacy of the system. There were some really good answers to the factual part of the question although comment was rarely focused as it needed to be. A problem with many of the better scripts was an imbalance in the answer whereby training was weakly considered compared to the process of application and selection.

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Paper 9084/13

Paper 13

Key messages

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Paper 9084/21

Paper 21

Key messages

An effective response to this paper will include the following:

- identify the issue
- show whether the legal issues arising are civil or criminal matters
- respond using the source material
- identify clearly what part of the source material is relevant
- apply the source material in detail to the scenario.

General comments

The Law and Legal Liabilities paper is a more practical paper than **Paper 1** as it includes source material as well as short scenarios which give rise to legal issues. It requires candidates to read the short scenario or series of scenarios and to answer questions set on the legal implications that arise. Candidates must use source material provided on the question paper. It replicates situations that a practising lawyer might encounter.

This paper offers a choice of one of two questions. The first question concentrated on the sentencing of an adult and a youth offender, both of whom had committed a burglary and who required the interpretation of the Powers of the Criminal Courts Act 2000. This Act gives increased sentencing powers to the court firstly, where a defendant is either under the age of 18 and the court considers him to be a persistent young offender or where the defendant is an adult and has committed two or more domestic burglaries.

The second question was based on a scenario concerning a rented flat. The property appears to be in a poor state of repair partly as a result of poor care by the landlord and partly as a result of damage caused by the tenant's - Nivedita – boyfriend, Mike. The scenario gives rise to a number of possible claims by the tenant under the Landlord and Tenant Act 1985.

Comments on specific questions

Question 1

This question was based on two sources: firstly, two sections from the Powers of Criminal Courts Act 2000 and secondly, the case of R v C (a Juvenile)(Persistent offender)(2001). Two of the questions set looked at different aspects of the Act.

(a) In this part candidates were expected to consider what sentence would be appropriate for Soni, an adult defendant, who has been involved in a burglary of a dwelling house. The background to Soni was given in some detail and candidates were expected to explain whether or not the court should consider imposing a custodial sentence on him because he had already committed other burglaries in the recent past or whether there were circumstances which would make it unjust to impose a custodial sentence on him. The background of Soni included facts such as the support given to him by his parents and his girlfriend's parents and the fact that he would have time to carry out a community sentence. Answers to this part were generally detailed and showed a good understanding of the issues under the Act. A common mistake was to confuse the defendant and consider Soni the persistent young offender.

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(b) In this part the candidates needed to consider what sentence would be appropriate for Jayesh who was under 18 at the time of the offence. Under s.100 Powers of the Criminal Courts Act 2000 as interpreted by J v C it was possible to regard Jayesh as a persistent young offender. Although he had no other previous convictions he was on bail for another offence of burglary and there were other factors which were relevant. This was answered very well by a number of candidates who showed aptitude in applying the sources to the facts of the question. Weaker answers concentrated too much on the actual sentence for Jayesh rather than whether he would be regarded as a persistent offender. Candidates generally answered this part very competently.

(c) Many candidates answered this part poorly. The question asked candidates to discuss the process of appeal against sentence from the Crown Court. There was confusion in the approach of many candidates. Some candidates responded to this question as if it was an appeal against conviction and many answered it as if it was a general question on appeals in criminal cases. Where the appeal process from the Crown Court was known, the answers were competent and often very good.

(d) The final part of the question asked candidates to consider the different approaches that should be adopted for sentencing adult and youth offenders. Although it was a question of sentencing, the main focus was on the comparative aspects of sentencing adult and youth offenders. There were several very good answers to this part of the question. Candidates were expected initially to discuss the principles that the court would apply when considering the appropriate sentence for both adult and youth offenders. In the case of youth offenders the emphasis would be on rehabilitation as opposed to a more punitive sanction. A number of answers were wide ranging in both the range of principles discussed as well as the types of sentences that the court would apply. Weaker answers limited the discussion to the defendant's background. This was credited but clearly this did not consider the key issue which was a consideration of the relevant principles employed in sentencing adult and youth offenders.

Question 2

This question included a variety of scenarios based on the Landlord and Tenant Act 1985 and considered whether a landlord would be liable for repairs under the Act in these different circumstances. There were no additional sources but candidates had to apply the specific subsection of the Act in order to achieve marks in the highest bands. The question also asked candidates about procedure in the civil courts.

(a) Candidates needed to focus clearly on the wording of s.11 (1)(a)(b)(c) in this part. Many candidates immediately came to the conclusion that, under the Act, the landlord would be required to keep in repair the boiler in Nivedita's property, which was correct. Better candidates also considered the other defects in the property such as the mould growing on the walls and the need for Nivedita to keep the windows closed at all times because of the lack of heating. The sources were applied well. Generally this part of the question was answered well.

(b) The second part of the question looked in more detail at the scenario which concerned the problems experienced by Nivedita with her washing machine and the broken interior door. This part was also generally well answered by the candidates, many of whom understood that the landlord would not be liable for problems in the property which were the responsibility of the tenant. Again the candidates used the sources well and applied them effectively to the scenario. Marks were generally lost through lack of detail in applying the law and failing to identify specific subsections of s.11(2) of the Act.

(c) The third part of the question required consideration of the processes involved in bringing a civil action to court. This part required a detailed understanding of civil procedure, in particular the tracking of cases and the reasons why a case would be heard under the fast track as opposed to the multi-track approach. Where candidates understood civil procedure this part was generally answered very well but the majority of candidates had only a vague understanding of the way the court processes worked and were very weak in their application of this to the facts of the scenario.

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(d) The final part of the question required the candidates to consider the various alternative methods available to a claimant when attempting to pursue a civil claim. This required a comparative approach and candidates needed to compare the advantages of taking a case through the courts with the advantages of alternative methods such as mediation. Answers required a detailed analysis of the four different methods of ADR: mediation, negotiation, conciliation and arbitration. These were generally known although very few answers included all four alternatives and very few answers were able to describe which method would suit Nivedita best and give reasons for it. Far too many answers included a detailed discussion of tribunals, which would not be appropriate under these circumstances because claims under the Landlord and Tenant Act would not be heard in a tribunal. The better answers contrasted the various methods under ADR and showed why the claimant might choose one method rather than another. These answers also included the reasons why pursuing a case through the courts may have advantages.

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Paper 9084/22

Paper 22

Key message

- Candidates must identify and use the appropriate parts of the source material provided.

General comments

In recent series of examinations, candidates have generally adapted well to the approach needed for **Paper 2** with its emphasis on the use of the source material supplied in the examination. Candidates have recently shown that they are able to apply the sources to the factual scenarios set. There is still a need for candidates to be able to adapt to the different types of scenarios set and be flexible in their approach. If candidates are not flexible and ready to adapt to different types of questions, they tend to miss points and then make mistakes which could so easily be avoided if the questions are read more carefully. So although there were some very good responses to this paper, there were also some disappointing answers to either entire questions or some parts of the questions, and this reflected an inadequate reading of the sources given. The use of source material was usually very good but candidates must always be careful to recognise the need to be specific about sections within a particular statute or references to a particular part of a case or judgement.

Comments on specific questions

Candidates had a choice of one out of two questions on this paper, both of which were split into subsections. **Question 1** was based on an extract from the Guard Dogs Act 1975 and candidates had to apply various sections from the Act in order to answer a range of questions including how the owner of premises, which were protected by Guard dogs, could avoid being found guilty of a criminal offence. The last part of the question required candidates to explain the way courts set about finding the intention of Parliament when applying a statute.

Question 2 was based on the Police and Criminal Evidence Act. The question focused on the admissibility of statements made to the police by three different people and how they could be admitted in evidence by the court. Candidates were also given the definition of oppression as decided in the case of R v Prager and they had to decide whether or not the definition was relevant. The final part of the question required candidates to consider whether the Police and Criminal Evidence Act 1984 protected the rights of defendants.

Question 1

(a) This part of the question was based on s.1(1)(2)(3) of the Guard Dogs Act 1975. These sections outline the duties of a person who owns premises that have guard dogs protecting them. The duties extend to **(i)** ensuring that there is a handler who is capable of controlling the dog(s) at all times, **(ii)** ensuring that a notice is displayed warning that guard dogs are in use and **(iii)** the need to secure the dog when it is not under the control of a handler. There were many excellent answers to this part of the question. Some candidates failed to achieve full marks because, although the source material was used, some sections and/or subsections were not applied and some candidates failed to develop the sources fully. A good answer to this part would have mentioned the points above, applied the subsections and then considered the position of Cyril and how the Act specifically affected him.

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(b) This part focused on s.5(2)**(a)** which expressly states that the provisions of the Act shall not be construed as conferring a right of action in any civil proceedings in respect of any contravention of the Act. Although a number of candidates answered this accurately and well, a majority of the cohort failed to apply this subsection. Many candidates confused the criminal provisions of the Act with the right of a claimant to make a civil claim. This was very disappointing. Of those candidates who were aware of the provisions of s.5(2)**(a),** a number answered the question by discussing alternative routes via tort - in particular, negligence. These answers were very pleasing indeed and generally scored the highest marks.

(c) This part looked at what information a dog warden would need in order to show that an offence had been committed under the Guard Dogs Act. The responses to this part were generally very good although a number of candidates simply replicated what had already been written in part **(a)**. This question required a different approach to **(a)** although the material was similar and candidates were supposed to look at the issue from Hassan, the dog handler's, point of view. However it was encouraging to see many candidates applying the source material so perceptively and well in this part of the answer.

(d) The final section required a detailed discussion of how a court can discover the intention of Parliament. This question asked candidates to describe the various rules of interpretation and to assess their value. The answers were often very detailed and included a wide range of such sources. However, there was a considerable number of answers which showed that they did not fully understand the wide range of rules available to the courts when interpreting and applying statutes. There were also too few answers that included a specific comparison between the purposive approach and other approaches to interpretation. This was disappointing as the purposive approach is very significant in seeking the intention of Parliament. Overall however, there were some encouraging answers, particularly those that considered the purposive approach and the value of Hansard, both of which linked it clearly to the question. It is important in a question such as this that the candidates are fully aware of the need to include some critical analysis.

Question 2

This question was based on the police and the Criminal Evidence Act 1984. Several arrests had been made in the course of police enquiries and the question concentrated on whether admissions and confessions could be admitted in evidence by the judge in the course of a trial. Questioning had taken place at the police station and, as a result of the questioning, all three defendants are sent to Barchester Crown Court for trial. This was a less popular question than the first question and although it was generally answered quite well, fewer candidates reached the top bands.

(a) Candidates needed to focus on s.76(1)**(b)** which allows the court to exclude a confession if it could be proved that the confession had been obtained by oppression or had been made as a result of anything said or done, which was likely to render it unreliable. A statement had been made by Nancy, who had told the police officer that her boyfriend Sykes was implemented in a robbery, because the police officer had pretended to Nancy that Sykes had been unfaithful to her. The better candidates realised that the police officer had put pressure on Nancy so her admission had been obtained not through oppression but because of something said by the police officer. A number of candidates failed to draw the correct conclusion about whether the statement could be admitted in evidence and a number were unsure of how the court would proceed.

(b) The second part of the question looked at another scenario where Sykes had been interviewed by a police officer and he had confessed to the offence because the police officer told him that he could arrange bail for him if Sykes admitted the offence. A good answer should have identified that the promise made by the police officer constituted oppression under s. 76(2)**(a)** as defined under R v Prager. This was generally answered very well by all the candidates.

(c) This part of the question required a detailed look at s. 77(1)**(b)(i)(ii)**. The third defendant Smike is interviewed by the police. He confesses to the offence but, as he is mentally handicapped, certain precautions should have been taken first including the need to have an independent person present when he was interviewed. The point that needed to be emphasised was that in this case the court must warn the jury that there is a special need for caution before convicting the accused in reliance on the confession. Many candidates simply stated that the admission would not be admitted rather than admitted by the court but with a special warning.

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(d) This question asked candidates to discuss the extent to which the Police and Criminal Evidence Act protects the rights of defendants. The best answers had a good range of the ways that the act protects defendants such as the limits on questioning the fact that a lawyer can be present and can also be a friend. A range of sections were understood and discussed in detail. Weaker answers showed a very limited grasp of the rules under PACE and could only cite the sections given on the exam paper in support of their answers. The very best answers linked the scenarios in the question with PACE. The most encouraging answers were those that focused on the situation in the factual scenario and considered what course of action would be best for the parties. These answers showed perception and were very good indeed. This part illustrated the same point made above about **Question 1** part **(d),** which was that only those answers which include some critical analysis will be able to access the higher mark bands.

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Paper 9084/23

Paper 23

Key message

- Candidates must identify and use the appropriate parts of the source material provided.

General comments

In recent series of examinations, candidates have generally adapted well to the approach needed for **Paper 2** with its emphasis on the use of the source material supplied in the examination. Candidates have recently shown that they are able to apply the sources to the factual scenarios set. There is still a need for candidates to be able to adapt to the different types of scenarios set and be flexible in their approach. If candidates are not flexible and ready to adapt to different types of questions, they tend to miss points and then make mistakes which could so easily be avoided if the questions are read more carefully. So although there were some very good responses to this paper, there were also some disappointing answers to either entire questions or some parts of the questions, and this reflected an inadequate reading of the sources given. The use of source material was usually very good but candidates must always be careful to recognise the need to be specific about sections within a particular statute or references to a particular part of a case or judgement.

Comments on specific questions

Candidates had a choice of one out of two questions on this paper, both of which were split into subsections. **Question 1** was based on an extract from the Guard Dogs Act 1975 and candidates had to apply various sections from the Act in order to answer a range of questions including how the owner of premises, which were protected by Guard dogs, could avoid being found guilty of a criminal offence. The last part of the question required candidates to explain the way courts set about finding the intention of Parliament when applying a statute.

Question 2 was based on the Police and Criminal Evidence Act. The question focused on the admissibility of statements made to the police by three different people and how they could be admitted in evidence by the court. Candidates were also given the definition of oppression as decided in the case of R v Prager and they had to decide whether or not the definition was relevant. The final part of the question required candidates to consider whether the Police and Criminal Evidence Act 1984 protected the rights of defendants.

Question 1

(a) This part of the question was based on s.1(1)(2)(3) of the Guard Dogs Act 1975. These sections outline the duties of a person who owns premises that have guard dogs protecting them. The duties extend to **(i)** ensuring that there is a handler who is capable of controlling the dog(s) at all times, **(ii)** ensuring that a notice is displayed warning that guard dogs are in use and **(iii)** the need to secure the dog when it is not under the control of a handler. There were many excellent answers to this part of the question. Some candidates failed to achieve full marks because, although the source material was used, some sections and/or subsections were not applied and some candidates failed to develop the sources fully. A good answer to this part would have mentioned the points above, applied the subsections and then considered the position of Cyril and how the Act specifically affected him.

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(b) This part focused on s.5(2)**(a)** which expressly states that the provisions of the Act shall not be construed as conferring a right of action in any civil proceedings in respect of any contravention of the Act. Although a number of candidates answered this accurately and well, a majority of the cohort failed to apply this subsection. Many candidates confused the criminal provisions of the Act with the right of a claimant to make a civil claim. This was very disappointing. Of those candidates who were aware of the provisions of s.5(2)**(a),** a number answered the question by discussing alternative routes via tort - in particular, negligence. These answers were very pleasing indeed and generally scored the highest marks.

(c) This part looked at what information a dog warden would need in order to show that an offence had been committed under the Guard Dogs Act. The responses to this part were generally very good although a number of candidates simply replicated what had already been written in part **(a)**. This question required a different approach to **(a)** although the material was similar and candidates were supposed to look at the issue from Hassan, the dog handler's, point of view. However it was encouraging to see many candidates applying the source material so perceptively and well in this part of the answer.

(d) The final section required a detailed discussion of how a court can discover the intention of Parliament. This question asked candidates to describe the various rules of interpretation and to assess their value. The answers were often very detailed and included a wide range of such sources. However, there was a considerable number of answers which showed that they did not fully understand the wide range of rules available to the courts when interpreting and applying statutes. There were also too few answers that included a specific comparison between the purposive approach and other approaches to interpretation. This was disappointing as the purposive approach is very significant in seeking the intention of Parliament. Overall however, there were some encouraging answers, particularly those that considered the purposive approach and the value of Hansard, both of which linked it clearly to the question. It is important in a question such as this that the candidates are fully aware of the need to include some critical analysis.

Question 2

This question was based on the police and the Criminal Evidence Act 1984. Several arrests had been made in the course of police enquiries and the question concentrated on whether admissions and confessions could be admitted in evidence by the judge in the course of a trial. Questioning had taken place at the police station and, as a result of the questioning, all three defendants are sent to Barchester Crown Court for trial. This was a less popular question than the first question and although it was generally answered quite well, fewer candidates reached the top bands.

(a) Candidates needed to focus on s.76(1)**(b)** which allows the court to exclude a confession if it could be proved that the confession had been obtained by oppression or had been made as a result of anything said or done, which was likely to render it unreliable. A statement had been made by Nancy, who had told the police officer that her boyfriend Sykes was implemented in a robbery, because the police officer had pretended to Nancy that Sykes had been unfaithful to her. The better candidates realised that the police officer had put pressure on Nancy so her admission had been obtained not through oppression but because of something said by the police officer. A number of candidates failed to draw the correct conclusion about whether the statement could be admitted in evidence and a number were unsure of how the court would proceed.

(b) The second part of the question looked at another scenario where Sykes had been interviewed by a police officer and he had confessed to the offence because the police officer told him that he could arrange bail for him if Sykes admitted the offence. A good answer should have identified that the promise made by the police officer constituted oppression under s. 76(2)**(a)** as defined under R v Prager. This was generally answered very well by all the candidates.

(c) This part of the question required a detailed look at s. 77(1)**(b)(i)(ii)**. The third defendant Smike is interviewed by the police. He confesses to the offence but, as he is mentally handicapped, certain precautions should have been taken first including the need to have an independent person present when he was interviewed. The point that needed to be emphasised was that in this case the court must warn the jury that there is a special need for caution before convicting the accused in reliance on the confession. Many candidates simply stated that the admission would not be admitted rather than admitted by the court but with a special warning.

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(d) This question asked candidates to discuss the extent to which the Police and Criminal Evidence Act protects the rights of defendants. The best answers had a good range of the ways that the act protects defendants such as the limits on questioning the fact that a lawyer can be present and can also be a friend. A range of sections were understood and discussed in detail. Weaker answers showed a very limited grasp of the rules under PACE and could only cite the sections given on the exam paper in support of their answers. The very best answers linked the scenarios in the question with PACE. The most encouraging answers were those that focused on the situation in the factual scenario and considered what course of action would be best for the parties. These answers showed perception and were very good indeed. This part illustrated the same point made above about **Question 1** part **(d),** which was that only those answers which include some critical analysis will be able to access the higher mark bands.

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Paper 9084/31

Paper 31

Key Messages

- Encourage contextual and critical learning of legal rules.
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
- Encourage detailed application of legal principle in scenario-based questions.
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question.

General comments

There was continued pleasing evidence that some Centres are heeding previous advice. However, there was also evidence that others may have slipped backwards.

The better prepared and more able candidates correctly identified the rules that required elucidation or discussion, were selective in the material presented and demonstrated an understanding of the question by appropriately commenting, criticising or evaluating as requested.

Disappointingly, there were more candidates than normal who failed to follow the question paper rubric and answer three questions. Whether this resulted from more than a normal amount of candidates being under-prepared for the examination or being less able to manage their time, is unclear.

Comments on specific questions

Section A

Question 1

This was a popular question that attracted responses of very variable quality.

Unfortunately, there were significant weaknesses in many responses. It would appear that weaker candidates either misread or simply misunderstood the requirements of the question. The result was all-embracing factual responses about agreement, intention and consideration for which few marks could be awarded.

Better prepared candidates, however, briefly discussed the elements of agreement and consideration and then focused exclusively on looking at the approach of the courts to intention. The best responses involved specific examples of commercial contracts in which intention was denied and of domestic agreements in which intention was found, followed by the requisite criticism of the legal rules.

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Question 2

This was not a particularly popular question despite it being perhaps the most straightforward in ***Section A*** of the paper. Responses were mixed in the extreme.

The best responses were characterised by a clear understanding of the aim of this discretionary remedy and of the limitations placed on its award.

Weaker responses were characterised by a poor grasp of the remedy's role in the law of contract and few seemed aware of even the most basic limitations.

Question 3

This question expected candidates to make an assessment of the validity of a view of legal rules and not simply regurgitate the rules themselves. It was attempted by a large proportion of candidates.

The best responses explained in some detail the common law rules of incorporation by signature, by notice and by previous dealings before focusing in depth on an analysis of cases involving incorporation of terms by notice and drawing conclusions regarding the truth of the statement made in the question.

Weak respondents generally failed to distinguish between common law and statutory rules for the incorporation of terms and tended to focus on factual exposition of fact rather than any form of assessment as required by the question.

Section B

Question 4

This was a popular question with many candidates recognising that it was a straightforward question about contract formation.

The better responses identified the relevant rules relating to invitation to treat, (implied) offer, counter offer and acceptance, illustrated them by reference to appropriate case law and then accurately and effectively applied them to each part of the transaction in the scenario before reaching a clear and concise conclusion.

The weakest answers consisted of lengthy, often contradictory diatribe, which was poorly applied to the scenario; any conclusion attempted was too often thin at best.

Question 5

Although this was a popular question, performance generally was not very strong.

The better answers recognised that the contract was probably binding on Genevieve after analysing the various exceptions regarding fraud, duress etc. with respect to the signing of a contract. They also focused on specific performance and injunction as the most likely remedies that TNS would seek, with good analyses of why specific performance would be unlikely to be granted and why injunction was the more likely remedy.

Few of even the better candidates picked up on potential liquidated damages/penalty issues.

Weaker candidate responses tended to miss the thrust in the question signposted towards the desire to enforce the contract and these responses were directed instead at the status of the term that might have been broken. Few - if any - marks could be awarded in these cases.

Question 6

This was probably the most popular question with a number of themes running through it and probably the one that attracted the best quality responses overall.

The best responses to this question were excellent examples of what well-drilled candidates can achieve: material carefully selected and presented within a compelling and logical structure, which applied the law to the scenario throughout and clear, compelling conclusions drawn, regarding possible remedies. .

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Most candidates who attempted this question identified the issues and seemed to apply the principles to the facts reasonably well. However, there were a number of weaker candidates whose responses lacked structure, were superficial and were exemplified by minimal application of rules before reaching conclusions.

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Paper 9084/32

Paper 32

Key Messages

- Encourage contextual and critical learning of legal rules
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.)
- Encourage detailed application of legal principle in scenario-based questions
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question

General comments

As to be expected, the paper provided a challenging range of questions. The knowledge and understanding elicited from candidates was on the whole satisfactory, although answering techniques varied quite widely and performance overall dipped noticeably this series. Consequently, Centres and their candidates are sincerely advised to refocus on the key messages identified above.

Better prepared and more able candidates correctly identified the rules that required elucidation or discussion, were selective in the material presented and demonstrated an understanding of the question by appropriately commenting, criticising or evaluating as requested.

In the majority of cases, where candidate performance fell below the required standard of this challenging paper, it was as a result of purely descriptive responses.

Comments on specific questions

Section A

Question 1

The best responses to this were from candidates who had actually read and understood the question. Present day and historical approaches to the classification of contractual terms into warranties, conditions and innominate terms was tracked through the exploration of appropriate case law, explained and then commented on in appropriate detail.

However, many candidates preferred to demonstrate a more factual approach to a discussion of contractual terms (many including incorporation of terms) and were totally unsuccessful in critically assessing whether innominate terms failed to provide justice to complainants and defendants. Details of the Hong Kong Fir case were either unknown or often insecure.

Question 2

This was one of the most popular questions - most candidates understood the rules limiting the contractual capacity of minors.

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The best responses came from those candidates who focused on the question set and who made a gallant attempt to explain why the age of majority has never been reduced despite suggestions that it ought to be in these modern times.

Weaker responses simply regurgitated the law less securely and then made no attempt to actually answer the question posed about reducing the age of majority further.

Question 3

This was a very popular question, but unfortunately candidates did not appear to have explored the ever-growing and thus increasingly relevant issues of contract formation using the Internet and distance selling rights and duties were unknown.

Even the better prepared candidates limited their responses to an analysis of general offer and acceptance principles and consequently failed to score but basic marks within band 3.

Section B

Question 4

This question was a popular one and attracted some of the most pleasing responses to this question paper.

The best responses were presented by candidates who identified misrepresentation and incorporation of terms as the key issues and then debated whether there was an actionable misrepresentation of a fraudulent or negligent nature. It was pleasing to see a proportion of candidates debate the issues of whether or not Mansfield even knew of the fault and Newton's relative expertise. Even the better candidates were less secure regarding incorporation of terms in context.

Weaker responses still used the opportunity to tell the Examiner all they knew about the types of misrepresentation and/or contractual terms in general and in far too many cases, any real application of legal principle to the scenario was wanting. The Examiner will always look for a brief introduction to contextualise the response, but candidates must realise that focus and detailed application are the keys to success.

Question 5

This was one of the least popular questions and elicited perhaps the most variable quality responses to any on the question paper.

The very best responses correctly identified the remedy of damages as the central issue to this question. Foresight and remoteness were appropriately discussed before moving on to look at the award of damages itself. A pleasing number recognised the need to discuss the liquidated damages / penalty issue, explore appropriate case law and draw conclusions.

Weaker responses received some credit for attempting to deal with the scenario by reference to breach or on the basis of consideration, but in general candidates all too often responded with ill-informed guesswork.

Question 6

This was a reasonably popular question eliciting variable quality responses with many candidates confusing misrepresentation with mistake and tending to write chapter and verse about the former.

Even among the better responses, the majority concluded that the fault lay with Best and few considered in detail whether the fact that Best had said 'what it says on the ticket' before saying £7.50 in any way obliged Charlton to say anything and thus whether or not his (Charlton's) silence could amount to a fraudulent misrepresentation, which simply induced to the quality of the subject matter of the contract rather than to its identity. Where noted, these candidates normally produced pleasing accounts of the effects on the passing of title to the medal in the event of Stiles being a bona fide purchaser.

Weaker responses tended to confuse mistake and misrepresentation; consequent conclusion of a meaningful nature was thus very difficult for candidates.

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Paper 9084/33

Paper 33

Key Messages

- Encourage contextual and critical learning of legal rules.
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
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General comments

There was continued pleasing evidence that some Centres are heeding previous advice. However, there was also evidence that others may have slipped backwards.

The better prepared and more able candidates correctly identified the rules that required elucidation or discussion, were selective in the material presented and demonstrated an understanding of the question by appropriately commenting, criticising or evaluating as requested.

Disappointingly, there were more candidates than normal who failed to follow the question paper rubric and answer three questions. Whether this resulted from more than a normal amount of candidates being under-prepared for the examination or being less able to manage their time, is unclear.

Comments on specific questions

Section A

Question 1

This was a popular question that attracted responses of very variable quality.

Unfortunately, there were significant weaknesses in many responses. It would appear that weaker candidates either misread or simply misunderstood the requirements of the question. The result was all-embracing factual responses about agreement, intention and consideration for which few marks could be awarded.

Better prepared candidates, however, briefly discussed the elements of agreement and consideration and then focused exclusively on looking at the approach of the courts to intention. The best responses involved specific examples of commercial contracts in which intention was denied and of domestic agreements in which intention was found, followed by the requisite criticism of the legal rules.

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Question 2

This was not a particularly popular question despite it being perhaps the most straightforward in ***Section A*** of the paper. Responses were mixed in the extreme.

The best responses were characterised by a clear understanding of the aim of this discretionary remedy and of the limitations placed on its award.

Weaker responses were characterised by a poor grasp of the remedy's role in the law of contract and few seemed aware of even the most basic limitations.

Question 3

This question expected candidates to make an assessment of the validity of a view of legal rules and not simply regurgitate the rules themselves. It was attempted by a large proportion of candidates.

The best responses explained in some detail the common law rules of incorporation by signature, by notice and by previous dealings before focusing in depth on an analysis of cases involving incorporation of terms by notice and drawing conclusions regarding the truth of the statement made in the question.

Weak respondents generally failed to distinguish between common law and statutory rules for the incorporation of terms and tended to focus on factual exposition of fact rather than any form of assessment as required by the question.

Section B

Question 4

This was a popular question with many candidates recognising that it was a straightforward question about contract formation.

The better responses identified the relevant rules relating to invitation to treat, (implied) offer, counter offer and acceptance, illustrated them by reference to appropriate case law and then accurately and effectively applied them to each part of the transaction in the scenario before reaching a clear and concise conclusion.

The weakest answers consisted of lengthy, often contradictory diatribe, which was poorly applied to the scenario; any conclusion attempted was too often thin at best.

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The best responses to this question were excellent examples of what well-drilled candidates can achieve: material carefully selected and presented within a compelling and logical structure, which applied the law to the scenario throughout and clear, compelling conclusions drawn, regarding possible remedies. .

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Most candidates who attempted this question identified the issues and seemed to apply the principles to the facts reasonably well. However, there were a number of weaker candidates whose responses lacked structure, were superficial and were exemplified by minimal application of rules before reaching conclusions.

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Paper 9084/41

Paper 41

Key Messages

- Encourage contextual and critical learning of legal rules.
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
- Encourage detailed application of legal principle in scenario-based questions.
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question.

General comments

The general standard was extremely disappointing this series; candidates simply do not appear to have prepared themselves adequately for the demands of this paper.

Centres and candidates are reminded that questions in ***Section A*** require the candidates to focus more on the critical analysis, assessment and evaluation of the legal rules that they learn and in ***Section B*** on the application of rules to a scenario-based problem and on the drawing of clear conclusions**.** Far too many candidates continue to appear to be unprepared for this aspect of the examination and their focus on explanation limited them to maximum marks within Band 3 of each question's mark scheme. To this end, candidates are encouraged to learn rules in such a way as to engender understanding of both the aim and purpose, to present responses which refer to precise legal rules and demonstrate skills of analysis, assessment and discussion rather than relying on ones based simply on vague knowledge of 'the law' and/or factual regurgitation.

Comments on specific questions

Section A

Question 1

In general, this question attracted disappointing responses. Very few candidates performed the requisite critical analysis of case law.

Most responses were descriptive although better prepared candidates were demonstrably more selective of material included in responses.

Weaker candidates tended to write about remedies in general and responses lacked appropriate focus.

Question 2

This was not a popular question but was one which attracted some of the best responses on the paper.

It was pleasing to see many candidates presenting a detailed but succinct explanation of occupiers' liability and a discursive assessment of whether or not rights and interests are balanced in society.

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A significant proportion of candidates still produced responses that were both far too reliant on description of rules and lacking in any form of meaningful comment as required by the question posed.

Question 3

This was a very popular question that produced responses of very variable standard. However in most cases there was a clear emphasis on explanation and a failure to use the material to answer the question as set. This was very disappointing.

The question did attract some reasonable responses. Such candidates were able to explain causation and remoteness tests succinctly and some did trace development through appropriate case law examples. Reflection upon the appropriateness and fairness of tests was nevertheless limited and views expressed in response to the question posed were rather thin.

Others tended to focus almost exclusively on the tests, did not explore case law examples and frequently omitted to comment in any way.

Question 4

Despite the question asking candidates to assess potential liability in private nuisance, it was alarming to find far too many candidates choosing to waste time talking about public nuisance (not even on the syllabus) or the tort in Rylands v Fletcher.

Otherwise this question attracted some very capable responses. Private nuisance was accurately defined, limitations of duration, sensitivity and location were explored through case law before being applied succinctly to the scenario and compelling conclusions were drawn.

Question 5

This question should have attracted a better general standard of response.

The nervous shock element made this a very popular choice, with most candidates demonstrating a fair understanding of this and of related negligence issues. There were some excellent, well-reasoned and supported responses and compelling consequential conclusions were drawn.

However, a significant number of candidates failed to be sufficiently selective of material included in responses or were less secure in their knowledge of relevant case law. Any conclusion drawn was superficial in the extreme and based on rocky foundations.

Question 6

Candidates in general did not do themselves justice with their responses.

Some recognised the issue as being one of negligent misstatement and economic loss flowing from it and indicated some knowledge and understanding of the leading case law. They were able to use their knowledge and apply it in a reasonably satisfactory manner to the given scenario and draw a reasoned conclusion.

On the other hand, many candidates less secure in their knowledge of relevant law, were able to do little more than identify negligence as a tort and in some cases Hedley Byrne. Any conclusion drawn was based on rocky foundations.

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Paper 9084/42

Paper 42

Key Messages

- Encourage contextual and critical learning of legal rules.
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
- Encourage detailed application of legal principle in scenario-based questions.
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question.

General comments

Centres and candidates are reminded that questions in ***Section A*** require the candidates to focus more on the critical analysis, assessment and evaluation of the legal rules that they learn and questions in ***Section B,*** on the application of rules to a scenario-based problem and on the drawing of clear conclusions**.** Far too many candidates continue to appear to be unprepared for this latter aspect of the examination and their focus on explanation limits them to maximum marks within Band 3 of each question's mark scheme. To this end, candidates are encouraged to learn rules in such a way as to engender understanding of both the aim and purpose; they need to present responses which refer to precise legal rules and demonstrate skills of analysis, assessment and discussion rather than relying on ones based simply on vague knowledge of 'the law' and/or factual regurgitation.

It is disappointing to report a noticeable decline in the standard of responses from some Centres when compared with scripts submitted in recent series.

Comments on specific questions

Section A

Question 1

This question proved to be quite popular and produced responses of very variable standard.

It was pleasing to see some candidates presenting a detailed account of the remoteness of damage principle and the requisite critical analysis of case law development.

It was disappointing, however, to see a large number of candidates treating this as a general negligence question with much unnecessary discussion of duty of care and breach of duty. In these responses there was little discussion of remoteness at all.

Question 2

This question proved to be popular with candidates and it was pleasing to see the majority had a good understanding of the principles of the independent torts in Rylands v Fletcher, private nuisance and negligence.

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However, the question expected more of candidates: some of the better prepared candidates presented not only an explanation of the torts themselves but also attempted at least a rudimentary comparison and drew conclusions, whereas weaker candidates tended to refer to the three torts identified in the question without then addressing the key issues raised by the question.

Question 3

This question attracted the fewest responses in ***Section A*** of the paper.

It was pleasing to see a small number of better prepared candidates approach this question correctly and with enough knowledge of the topic to engage in a sound analysis.

Conversely it was disappointing to see a remarkable number of candidates who clearly did not understand the question at all; some even discussed nervous shock and others pure economic loss.

Question 4

This question was popular and in general one of the better answered questions on the paper.

It was pleasing to see the majority of candidates able to identify Occupiers' Liability as the relevant area of law, explain the relevant rules and apply them to the facts. Candidates generally identified the issue relating to a person exercising their calling and distinguished this from the situation involving the handrail.

Other candidate responses - those tending to the all-embracing superficial approach - would have benefitted from better structure.

Question 5

This question was the least popular on ***Section B*** and produced a mixed response but, overall, the standard of responses here was poor.

Better prepared candidates managed to provide a detailed, yet succinct explanation of vicarious liability and negligence and then produce an informed and well- considered analysis of liability for the farmers' losses.

Less well-prepared candidates seemed to believe the tort in Rylands v Fletcher to be the basis for liability even though there was no suggestion of any accumulation of deleterious material in the scenario. Others produced responses that evidenced very patchy knowledge and understanding of legal principles and extremely superficial application thereof.

Question 6

This was also a popular question but many candidates did not do themselves justice with responses to this question. While many candidates correctly identified the key issues of trespass to land and trespass to the person in the form of assault and battery, there were some common errors and omissions. For instance, some thought the issue related to Occupiers' Liability and many failed to spot all the issues.

The best responses were able to recognise the issues, indicate detailed knowledge and understanding of the leading case law, use their knowledge and apply it in a satisfactory manner to the given scenario and finally, draw reasoned conclusions.

However, there were also less convincing responses in which issues such as nuisance, negligence and OLA 1957/84 were raised as well as some in which knowledge of the relevant trespass was scant and poorly applied.

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Paper 9084/43

Paper 43

Key Messages

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- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
- Encourage detailed application of legal principle in scenario-based questions.
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question.

General comments

The general standard was extremely disappointing this series; candidates simply do not appear to have prepared themselves adequately for the demands of this paper.

Centres and candidates are reminded that questions in ***Section A*** require the candidates to focus more on the critical analysis, assessment and evaluation of the legal rules that they learn and in ***Section B*** on the application of rules to a scenario-based problem and on the drawing of clear conclusions**.** Far too many candidates continue to appear to be unprepared for this aspect of the examination and their focus on explanation limited them to maximum marks within Band 3 of each question's mark scheme. To this end, candidates are encouraged to learn rules in such a way as to engender understanding of both the aim and purpose, to present responses which refer to precise legal rules and demonstrate skills of analysis, assessment and discussion rather than relying on ones based simply on vague knowledge of 'the law' and/or factual regurgitation.

Comments on specific questions

Section A

Question 1

In general, this question attracted disappointing responses. Very few candidates performed the requisite critical analysis of case law.

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Weaker candidates tended to write about remedies in general and responses lacked appropriate focus.

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This was not a popular question but was one which attracted some of the best responses on the paper.

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A significant proportion of candidates still produced responses that were both far too reliant on description of rules and lacking in any form of meaningful comment as required by the question posed.

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This was a very popular question that produced responses of very variable standard. However in most cases there was a clear emphasis on explanation and a failure to use the material to answer the question as set. This was very disappointing.

The question did attract some reasonable responses. Such candidates were able to explain causation and remoteness tests succinctly and some did trace development through appropriate case law examples. Reflection upon the appropriateness and fairness of tests was nevertheless limited and views expressed in response to the question posed were rather thin.

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The nervous shock element made this a very popular choice, with most candidates demonstrating a fair understanding of this and of related negligence issues. There were some excellent, well-reasoned and supported responses and compelling consequential conclusions were drawn.

However, a significant number of candidates failed to be sufficiently selective of material included in responses or were less secure in their knowledge of relevant case law. Any conclusion drawn was superficial in the extreme and based on rocky foundations.

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Some recognised the issue as being one of negligent misstatement and economic loss flowing from it and indicated some knowledge and understanding of the leading case law. They were able to use their knowledge and apply it in a reasonably satisfactory manner to the given scenario and draw a reasoned conclusion.

On the other hand, many candidates less secure in their knowledge of relevant law, were able to do little more than identify negligence as a tort and in some cases Hedley Byrne. Any conclusion drawn was based on rocky foundations.

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